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Date: 05/11/2012

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STATE OF NEBRASKA

Dave Heineman
Governor

OFFICE OF THE GOVERNOR
P.O. Box 94848 • Lincoln, Nebraska 68509-4848
Phone: (402) 471 2244 • dave.heineman@nebraska.gov

October 21, 2011

Assistant Secretary Dr. Kerri-Ann Jones
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

Daniel A. Clune
Principal Deputy Assistant Secretary
U.S. Department of State
Room 3880
2201 C Street, NW
Washington, D.C. 20520

Dear Ms. Jones and Mr. Clune:

Enclosed is a copy of the letter that the President of TransCanada sent to the Speaker of the Nebraska Legislature regarding additional safety measures that TransCanada is willing to pursue. I support these safety measures and I encourage you to mandate them as additional conditions in your permitting process should you decide to approve the permit.

I want to emphasize to you again that I do not support the current proposed route through Nebraska. Thank you.

Sincerely,

Dave Heineman

Dave Heineman
Governor

Enclosure

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Nebraska State Legislature

MICHAEL J. FLOOD
Senator

SPEAKER OF THE LEGISLATURE

District 19
105 South 2nd Street
Norfolk, Nebraska 68701
(402) 371-4844



Legislative Address:

State Capitol
PO Box 94604
Lincoln, Nebraska 68509-4604
(402) 471-2929
mflood@leg.ne.gov

October 19, 2011

GOVERNORS OFFICE

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The Honorable Dave Heineman
Governor, State of Nebraska
State Capitol
Lincoln, NE 68509

RE: Enactment of Pipeline
Siting Legislation and
Special Session

Dear Governor Heineman:

Please find enclosed an October 18, 2011, letter that I received from Alex Pourbaix of TransCanada. As I am sure you are aware, Senators Langemeier, Dubas, Sullivan and I met with TransCanada officials on October 11, 2011. The company officials advised us they were unwilling to move the proposed Keystone XL route, but did respond to our concerns about groundwater contamination, response time to any oil spills along the proposed route, remediation of those spills, and water testing. In addition to discussing our concerns, TransCanada officials left the October 11, 2011, meeting with a commitment to more fully respond to our stated concerns with a researched and thorough response in writing within a week. The enclosed letter constitutes that response.

In my opinion, based on what I know at this time, the Legislature should not hold a special session for the purpose of enacting siting legislation to affect the proposed Keystone XL Pipeline. Please find enclosed a copy of an October 19, 2011, letter to my colleagues together with attachments thereto outlining my position.

As a member of the Legislature, I am, as is our branch, unable either to accept or further negotiate with

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The Honorable Dave Heineman
October 19, 2011
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TransCanada regarding the establishment of these extra conditions for improved safety along the Keystone XL route. I would respectfully request that you, in your role as Governor of this State, and your administration, review the enclosed letter from TransCanada and make arrangements to sit down and formalize these additional safety conditions, which I believe are in the best interest of our state.

I would be pleased to further discuss this matter with you at your convenience. Please don't hesitate to contact me if you have any questions.

Yours very truly,


Michael J. Flood

MJF:jrt

Enclosures

cc: Members of the Nebraska Legislature

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OFFICE OF THE SPEAKER
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OCT 18 2011



October 18, 2011

NEBRASKA LEGISLATURE

TransCanada Keystone Pipeline GP, LLC
c/o TransCanada USA Services Inc.
13710 FNB Parkway, Suite 300
Omaha, Nebraska
68154

Senator Mike Flood
Nebraska Legislature
District #19
PO Box 94604
Lincoln, NE 68509

web: www.KeystoneXLNebraska.com

Dear Speaker Flood:

I would like to extend my appreciation for your involvement in organizing and facilitating the very productive meeting with Senators Dubas, Langemeier and Sullivan last week. As we discussed in the meeting, TransCanada takes its commitments to safety and the environment very seriously. We also treat our 60,000 landowners with respect and fairness. I came to the meeting with an open mind and a strong desire to try to find a resolution to the concerns we have heard regarding the route of Keystone XL through the Sandhills region of eastern Nebraska.

As we discussed in the meeting, at this late date in the federal Presidential Permit process, it is impossible for us to move the route to avoid the Sandhills. The Department of State's Final Environmental Impact Statement concluded that "there would be no significant impacts to most resources along the proposed Project corridor". At the same time, the concerns you and the other Senators articulated at our meeting resonated with me.

As I understood, the primary issue with the pipeline route centered on the portion of the route that crossed the Sandhills region of eastern Nebraska. Concerns in this area on focused on the following issues:

- Fears of an accidental release of oil from the pipeline in those areas of the route in the Sandhills where the water table is near or at the surface;
- The ability of TransCanada to respond quickly and effectively to an accidental release of oil in the Sandhills;
- Concerns over possible contamination of drinking water wells in the Sandhills; and
- A specific concern with the planned location of a pump station in Holt County where the water table is near the surface.

At the conclusion of the meeting, TransCanada agreed to investigate a number of potential additional measures to further address these concerns raised by the Senators and by Nebraskans. As a result of our

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Attention: Senator Mike Flood

October 18, 2011

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discussions, TransCanada is pleased to offer the following measures for your consideration:

- To provide additional assurance of TransCanada's commitment to clean up accidental releases of oil, we are prepared to provide and maintain a performance bond of \$100 million, to be made available to the State of Nebraska if TransCanada does not clean up a spill in the Sandhills. We will be happy to discuss how such a bond would work at your convenience;
- TransCanada would construct a concrete containment structure surrounding the Keystone XL pump station #22 in Holt County. In the event of a spill, the containment structure will inhibit oil from mixing with surface water;
- TransCanada would locate oil spill response equipment and personnel in the Sandhills region to minimize initial spill site response time to less than 2 hours versus the federal requirement of 12 hours (see Attachment #1);
- TransCanada would install concrete coating, rock jacket or other protective materials that will fully encircle the pipeline in the Sandhills where the water table is near at or at the surface for significant distance. Engineering analysis has identified approximately 35 miles of pipeline between milepost 600 and milepost 677 as having a water table that could potentially be at or near the surface (see attached map);
- TransCanada would offer to conduct water well testing for all interested Landowners that have water wells within 300 feet from the centerline of the proposed pipeline in the Sandhills region. Baseline samples would be collected prior to placing the pipeline in service. Subsequently, in the event of a significant spill in this region, TransCanada would conduct water well sampling for wells within 300 feet of the spill site. TransCanada will provide an alternate water supply for any well where the water quality is compromised by a spill; and
- Prior to construction TransCanada would select, subject to the Nebraska Department of Environmental Quality approval, and pay for a public liaison officer to facilitate the exchange of information between TransCanada's contractors and employees, and landowners, local communities and residents. The purpose would be to respond to any questions or concerns and to resolve promptly any complaints or problems that may develop as a result

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of the pipeline during construction. The public liaison officer shall report to the Nebraska Department of Environmental Quality.

I trust these responses provide additional important assurances to the concerns identified last week. I believe they should help alleviate any remaining concerns about the safety of the approved route of the pipeline. After you have had an opportunity to discuss these points with your fellow Senators, I would be pleased to discuss implementation of these measures. I very much appreciated the opportunity to hear directly from the Senators and I look forward to continuing our dialogue with regard to this critical infrastructure and energy security project.

Sincerely,



Alex Pourbaix
President, Energy and Oil Pipelines
TransCanada Corporation

Cc: Senator Annette Dubas
Senator Chris Langemeier
Senator Kate Sullivan

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Attachment #1

Sandhills Spill Response Plan
Augmentation to TransCanada Future Spill Response Plan for the
Keystone XL Pipeline

Originally planned Operations Offices and Staffing

- Winner, South Dakota - 4 employees
- Grand Island, Nebraska - 3 employees

Proposed additional Operations Offices and Staffing to address spill response time in the Sandhills

- Murdo, South Dakota - 3 employees
- O'Neill, Nebraska - 5 employees
- Grand Island, Nebraska - 2 employees

Spill Response Equipment

- At pump stations 21, 22 23 and 24, construct a cold storage building to house spill response equipment.
- Locate a Field Office in O'Neill, Nebraska with spill response equipment including, ATVs, skid steer, booms, absorbents, etc.
- Retain local contractors to have heavy equipment required for spill response (e.g. back hoe, vacuum truck, dozers). Equipment operators would be HAZWOPER trained as required.

Documentation and Drills

- Prepare and maintain an emergency response plan specific to the Sandhills area. The plan will be developed with Sandhills area emergency services officials.

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Attention: Senator Mike Flood

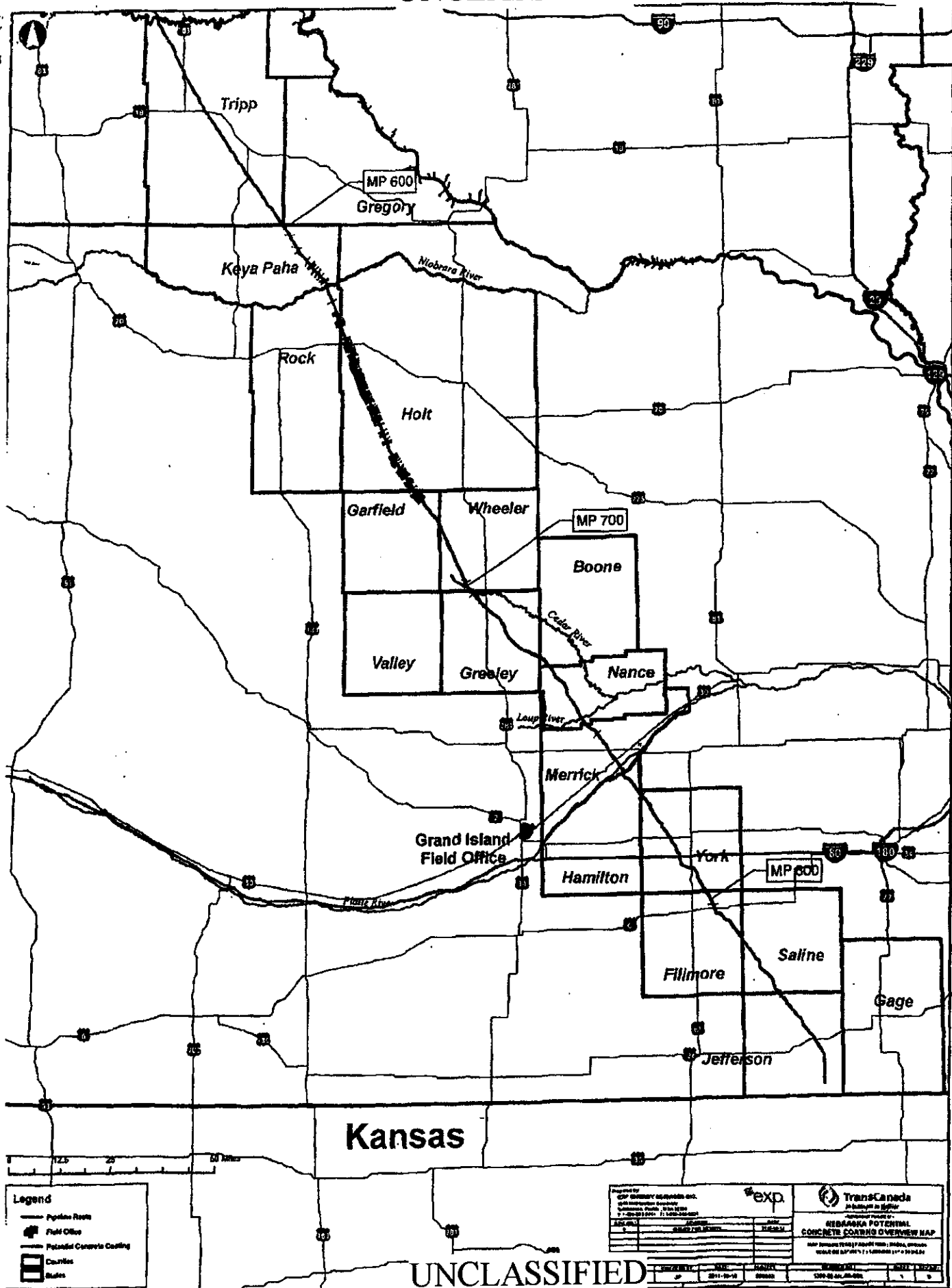
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- Conduct oil spill response exercises in the Sandhills region with participation of local emergency responders and contractors.

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